

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 16-941(DSD/LIB)

Rushinga Muzaliwa, et al.,

Petitioner,

v.

ORDER

Joel Brott, et al.,

Respondents.

This matter is before the court upon the objections by petitioners Rushinga Francois Muzaliwa and Hienok Mengisteab Zere to the June 10, 2016, report and recommendation (R&R) of Magistrate Judge Leo I. Brisbois. The magistrate judge recommended that the court deny petitioners' motion and amended motion for certification of classes, deny Muzaliwa's amended petition for writ of habeas corpus as moot, and deny Zere's amended petition for writ of habeas corpus. Petitioners filed timely objections to the R&R. Soon thereafter, Zere was released from custody. The parties agree that the R&R therefore is moot insofar as it addresses the merits of Zere's petition. And given his recent release, Zere's petition is now moot as well.¹ As a result, the court is left only to consider whether the R&R correctly recommended denial of class certification.

¹ Muzaliwa does not object to the R&R's conclusion that his petition is moot in light of his release from custody. There are no material legal or factual distinctions that lead to a contrary conclusion with respect to Zere.

The court reviews the R&R de novo. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); D. Minn. L.R. 72.2(b). After a thorough review of the file and record, the court finds that the R&R is well-reasoned and correct.

The R&R correctly determined that class certification should be denied because petitioners failed to meet Rule 23's class requirements. The court now also denies class certification for the additional reason that there are no remaining class representatives given that Muzaliwa's and Zere's petitions are moot. See Hechenberger v. W. Elec. Co., 742 F.2d 453, 455 (8th Cir. 1984) ("The normal rule is that when claims of the named plaintiffs are moot before class certification dismissal of the action is required.").

Accordingly, **IT IS HEREBY ORDERED** that:

1. The objections to the R&R [ECF No. 47] are overruled;
2. The R&R [ECF No. 46] is adopted in part as set forth above;
3. The motion and amended motion for class certification [ECF Nos. 3, 27] are denied;
4. The amended petition for a writ of habeas corpus [ECF No. 25] is denied as moot; and

5. This action is dismissed without prejudice.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: July 20, 2016

s/David S. Doty
David S. Doty, Judge
United States District Court